

By: Ellis

S.B. No. 1563

A BILL TO BE ENTITLED

AN ACT

relating to the definition of and access to public information.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 552.002, Government Code, is amended to read as follows:

Sec. 552.002. DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION. (a) In this chapter, "public information" means information that is collected, assembled, or maintained under a law or ordinance or in connection with or related to the transaction of official business:

(1) by a governmental body; ~~or~~

(2) for a governmental body, or in connection with any project, activity, or other matter funded wholly or partly with public funds of a governmental body, and the governmental body owns the information or has a right of access to it; or

(3) by an individual officer or employee of a governmental body, including an elected official or member of the elected official's staff, in the course and scope of the individual's official duties.

(b) The media on which public information is recorded include:

(1) paper;

(2) film;

(3) a magnetic, optical, ~~or~~ solid state, or other

1 device that can store an electronic signal;

2 (4) tape;

3 (5) Mylar; and

4 (6) any physical material on which information may be  
5 recorded, including linen, ~~[+]~~

6 ~~[(7)]~~ silk, ~~[+]~~ and

7 ~~[(8)]~~ vellum.

8 (c) The general forms in which the media containing public  
9 information exist include a book, paper, letter, document, e-mail,  
10 Internet posting, text message, instant message, other electronic  
11 communication, printout, photograph, film, tape, microfiche,  
12 microfilm, photostat, sound recording, map, and drawing and a  
13 voice, data, or video representation held in computer memory.

14 (d) The definition of public information provided by  
15 Subsection (a) applies to:

16 (1) information that is contained in a communication  
17 conducted through a device procured, provided, or purchased, wholly  
18 or partly, by a governmental body or maintained on governmental  
19 servers; or

20 (2) information contained on any other device if the  
21 device is used by an individual officer or employee of a  
22 governmental body, including an elected official or member of the  
23 elected official's staff, in the course and scope of the  
24 individual's official duties.

25 SECTION 2. Section 552.003, Government Code, is amended by  
26 adding Subdivision (2-a) to read as follows:

27 (2-a) "Official business" means any matter over which a

1 governmental body has any authority, administrative duties, or  
2 advisory duties.

3 SECTION 3. Section 552.022(a), Government Code, is amended  
4 to read as follows:

5 (a) Without limiting the amount or kind of information that  
6 is public information under this chapter, the following categories  
7 of information are public information and not excepted from  
8 required disclosure unless made confidential under this chapter or  
9 other law:

10 (1) a completed report, audit, evaluation, or  
11 investigation made of, for, or by a governmental body, except as  
12 provided by Section 552.108;

13 (2) the name, sex, ethnicity, salary, title, and dates  
14 of employment of each employee and officer of a governmental body;

15 (3) information in an account, voucher, or contract  
16 relating to the receipt or expenditure of public or other funds by a  
17 governmental body;

18 (4) the name of each official and the final record of  
19 voting on all proceedings in a governmental body;

20 (5) all working papers, research material, and  
21 information used to estimate the need for or expenditure of public  
22 funds or taxes by a governmental body, on completion of the  
23 estimate;

24 (6) the name, place of business, and the name of the  
25 municipality to which local sales and use taxes are credited, if  
26 any, for the named person, of a person reporting or paying sales and  
27 use taxes under Chapter 151, Tax Code;

1           (7) a description of an agency's central and field  
2 organizations, including:

3                   (A) the established places at which the public  
4 may obtain information, submit information or requests, or obtain  
5 decisions;

6                   (B) the employees from whom the public may obtain  
7 information, submit information or requests, or obtain decisions;

8                   (C) in the case of a uniformed service, the  
9 members from whom the public may obtain information, submit  
10 information or requests, or obtain decisions; and

11                   (D) the methods by which the public may obtain  
12 information, submit information or requests, or obtain decisions;

13           (8) a statement of the general course and method by  
14 which an agency's functions are channeled and determined, including  
15 the nature and requirements of all formal and informal policies and  
16 procedures;

17           (9) a rule of procedure, a description of forms  
18 available or the places at which forms may be obtained, and  
19 instructions relating to the scope and content of all papers,  
20 reports, or examinations;

21           (10) a substantive rule of general applicability  
22 adopted or issued by an agency as authorized by law, and a statement  
23 of general policy or interpretation of general applicability  
24 formulated and adopted by an agency;

25           (11) each amendment, revision, or repeal of  
26 information described by Subdivisions (7)-(10);

27           (12) final opinions, including concurring and

1 dissenting opinions, and orders issued in the adjudication of  
2 cases;

3 (13) a policy statement or interpretation that has  
4 been adopted or issued by an agency;

5 (14) administrative staff manuals and instructions to  
6 staff that affect a member of the public;

7 (15) information regarded as open to the public under  
8 an agency's policies;

9 (16) information that is in a bill for attorney's fees  
10 and that is not privileged under the attorney-client privilege;

11 (17) information that is also contained in a public  
12 court record; ~~and~~

13 (18) a settlement agreement to which a governmental  
14 body is a party;

15 (19) a contract between an agency and any other  
16 person, including records and files related to the performance of a  
17 governmental function by the other person;

18 (20) a local government record as defined by Chapter  
19 201, Local Government Code;

20 (21) a local government record as defined by Section  
21 441.151;

22 (22) a state record as defined by Chapter 441; and

23 (23) a county record as defined by Section 441.091.

24 SECTION 4. Subchapter B, Chapter 552, Government Code, is  
25 amended by adding Section 552.030 to read as follows:

26 Sec. 552.030. PROVISIONS REQUIRED IN GOVERNMENT CONTRACT.

27 (a) A contract between a governmental body and another person for

1 the performance of a governmental function shall:

2 (1) provide that the governmental body is entitled to  
3 obtain from the contracting person a copy of any record or file  
4 related to the performance of the governmental function;

5 (2) provide that a copy of a record or file described  
6 by Subdivision (1) may be disclosed by the governmental body under  
7 this chapter; and

8 (3) require the contracting person to administer  
9 information relating to the performance of a governmental function  
10 under the contract as required under this chapter.

11 (b) A contract to which Subsection (a) applies that is  
12 entered into on or after September 1, 2013, shall be construed as if  
13 the contract contains the provisions required by that subsection  
14 without regard to whether the contract includes those provisions on  
15 its face.

16 (c) A governmental body may not enter into a contract that  
17 impairs the right of the public under the provisions of this chapter  
18 to inspect or obtain a copy of the governmental body's information  
19 that is not confidential or not otherwise excepted from disclosure  
20 under this chapter, including public information existing online or  
21 in a device or medium procured, provided, or purchased, wholly or  
22 partly, by a governmental body or maintained on governmental  
23 servers.

24 SECTION 5. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2013.